Bank of Wellington *v.* Chapman, 173 U. S. 205, 219, 19 Sup. Ct. 407, 43 L. Ed. 669. In the present case, there is a clear showing of such competition, relatively material in amount, and it follows that, upon the undisputed facts, the ordinance and statute under which the stock of plaintiff in error was assessed, as construed and applied, exceeded the limitation prescribed by sec. 5219, Rev. Stat., and hence that the tax is invalid."

Mr. Justice Brandeis, dissents.

When Martial Law Obtains.—In Ex parte Lavinder, 108 S. E. 428, the Supreme Court of Appeals of West Virginia held that martial law operating, in the government of territory, as a substitute for the civil law, or as an addition thereto, so as to restrict the liberties of citizens and augment the powers of officers, is an incident of military operations and of actual military occupation of the territory so governed; wherefore it cannot obtain in the absence of such operations and occupation.

The court said in part:

"The substitution of military for the civil law in any community is an extreme measure. Socially, economically, and politically, it is deplorable and calamitous. Its sole justification is the failure of the civil law fully to operate and function, for the time being, by reason of the paralysis or overthrow of its agencies, in consequence of an insurrection, invasion, or other enterprise hostile to the state, and resulting in actual warfare. And then such substitution at any place within the state cannot extend beyond the limits of the theater of actual war. Nance *v.* Brown, 71 W. Va. 519, 77 S. E. 243, 45 L. R. A. (N. S.) 996, Ann. Cas. 1914C, 1; In re Jones et al., 71 W. Va. 567, 77 S. E. 1029, 45 L. R. A. (N. S.) 1030, Ann. Cas. 1914C, 31. Martial Law within the territory of a country at war with another, or with rebellious citizens or subjects in possession of a part of its own territory, is not a necessary incident or consequence of the existing state of war. A concrete illustration of this proposition is found in the late World War. Though there were millions of men under arms in the United States, not a foot of its territory was subjected to marital law on the ground of the existence of the state of war between this country and certain European governments; nor, under principles declared in Ex parte Milligan, 4 Wall. (U. S.) 2, 18 L. Ed. 281, could it have been, because there was no actual warfare in this country—no fighting, no battle lines, no area in which troops were assembled or removed to and fro, in the conduct of or preparation for immediate or probable combat. In the great Civil War, portions of this country lying without the theater of actual war, as here indicated, were constitutionally immune from martial law. Ex parte Milligan, cited.

"It is perfectly manifest that the proclamation of war did not, ipso facto, nor ex proprio vigore, inaugurate martial law in Mingo county.

The governor's attempt to inaugurate it and put it into effect in that county, in the manner hereinbefore described, was clearly futile and inoperative. The irresistible logic of the precedents already cited, and of all others bearing upon the subject, is that martial law is an incident of military operations within the area of actual, not merely theoretical, warfare. Being only an incident of actual warfare, such warfare is essential to its existence; and, being also a mere incident of actual military occupation of territory, an army in the field is equally essential and indispensable. No precedent, text, nor judicial opinion found in the books accords to martial law of the kind now under consideration a wider scope or larger function than that just indicated. Upon the theory of the procedure under which these arrests were made, a citizen of revolting or enemy territory might be guilty of many infractions of martial law long before accrual of the power to make it effective. As an incident of the Civil War, that theory, if applied, might have piled up against a citizen of Georgia a three or four years' accumulation of offenses under federal military regulations of which he had had no knowledge, and required him to suffer imprisonment or other punishment for them on the arrival of federal troops within the state. There could have been no American martial law in Cuba, Porto Rico, the Philippine Islands, or Germany until the American troops actually occupied those countries, and then it was limited to the territories in actual occupation. It is a purely military measure, and its administration a strictly military function. To say the military chief may prescribe it and then devolve its enforcement upon the civil officers of the territory involves a serious departure from logic, as well as a contradiction in terms. It is as truly military in its administration as in its origin, nature, and institution or proclamation."

Who May Join in Bill to Restrain Injurious Acts against Business Enterprises.—In Kitchen & Co. *v.* Local Union No. 141, International Brotherhood of Electrical Workers (W. Va.), 112 S. E. Rep. 198, the Supreme Court of Appeals of West Virginia held that: "Any number of persons in a community, whose respective business enterprises are illegally, injuriously, and similarly affected by identical wrongful acts, repeatedly and constantly done by numerous other persons acting in confederation and conspiracy against such enterprises and their owners, may join in a bill seeking restraint and prevention of such illegal and injurious acts by injunction."

The court said in part: "The bill discloses a controversy between all the contracting employers, on one side, and all the local organizations of union labor engaged in the principal branches of construction work, on the other, over wages. Among the plaintiffs, there is complete unity and solidarity in the demand for wage reductions in the vocations followed by the defendants. And there are like and